

# EXHIBIT 9

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

RICHARD ROSARIO,

Plaintiff,

-against-

THE CITY OF NEW YORK, *et al.*,

Defendants.

18-cv-4023 (LGS)

**DECLARATION OF BETTINA ROBERTS**

I, Bettina Roberts, an attorney admitted to practice in the State of New York and the Southern District of New York, submit this declaration under penalty of perjury:

1. From January 2018 until April 2021, I was employed as a staff attorney at Neufeld Scheck & Brustin, LLP, (“NSB”) with offices at 99 Hudson Street, 8th Floor, New York, New York 10013.
2. I make this declaration in support of an application for attorneys’ fees pursuant to 42 U.S.C. § 1988, covering the hours I expended on this matter. I am fully familiar with the facts discussed herein.

**EDUCATION AND EXPERIENCE**

3. I graduated from Duke University School of Law in 2010 with an J.D./LL.M. in International and Comparative Law. After graduating, I clerked for the (late) Hon. David W. Daniel, United States Magistrate Judge for the Eastern District of North Carolina, before joining the Federal Public Defender's Office for the same district. In 2015, I moved to New York and clerked for the Hon. Frank Maas (Ret.), United States Magistrate Judge for the Southern District of New York. I then worked as an associate at a boutique white collar defense firm, before joining NSB in 2018. My resume is attached as Exhibit A.
4. During my time at NSB, I worked almost exclusively on 42 U.S.C. § 1983 civil rights

litigation in federal courts around the country. My practice focused on wrongful conviction cases such as Richard Rosario's, involving lawsuits against police, prosecutors and/or state and municipal crime lab employees for unconstitutional misconduct. This body of law, arising at the intersection of criminal procedure and civil rights, is relatively new and constantly evolving. To my knowledge, NSB is the only firm in the nation litigating these issues full time.

5. Generally, all these cases involve procedural defenses such as absolute and qualified immunity and require a nuanced understanding of the differences between what it takes to vacate a criminal conviction and the elements of civil liability. In addition, the cases typically involve the same sets of claims, including for fabrication of evidence, *Brady*, and malicious prosecution, and involve similarly flawed inculpatory evidence, including misidentifications caused by suggestive identification procedures. My focus on these issues during my time at NSB, as well as access to NSB's collective knowledge derived from litigating these cases for over twenty years, made my work on this case much more efficient than it otherwise would have been.
6. On behalf of counsel for Plaintiff, I am seeking compensation for my work at a rate of \$425 an hour. In my opinion, this requested rate is reasonable in light of the relevant market and my experience and skill.

#### **WORK IN THIS CASE**

7. I am seeking compensation, on behalf of counsel for Plaintiff, for the time I spent on this matter from December 2019 to April 2021.
8. Under the guidance of my senior colleague, Anna Benvenuti Hoffmann, my main responsibility in this case was conducting legal research and drafting briefs and motions. I also was heavily involved in drafting summary judgment briefing, Plaintiff's Daubert motion, and parts of Plaintiff's motions in limine.

9. As set forth in the billing records attached as Exhibit B, I am seeking compensation for a total of 116.7 attorney hours in this matter. Exhibit B is copied directly from my contemporaneous timekeeping log.
10. I have reviewed my timekeeping log for this matter in its entirety, and made an effort to take a conservative and reasonable approach to the total hours for which I seek compensation. In my judgment, each hour set forth in Exhibit B was necessitated by the circumstances and reasonably expended in pursuit of the ultimate favorable outcome in this complicated and important civil rights case.
11. I hereby declare under penalty of perjury that the foregoing is true.

Date: September 20<sup>th</sup>, 2022

Conal Gubler, Florida



Bettina Roberts

# EXHIBIT A

**BETTINA K. ROBERTS**

EXPERIENCE

**NEUFELD SCHECK & BRUSTIN, LLP**

*Staff Attorney*

New York, NY

January 2018 – April 2021

- Actively participated in all stages of Section 1983 actions, including drafting motions, responses, discovery requests, and appeals; coordinated all firm summary judgment filings; prepared settlement statements
- Responsible for managing workloads for all firm paralegals; coordinated training for all new paralegals and attorneys

**SERPE RYAN LLP**

*Associate*

New York, NY

September 2016 – January 2018

- Involved in all aspects of firm litigation strategy in wide variety of white-collar defense matters, including drafting criminal pretrial motions and SEC Wells letters, managing document review and discovery requests/responses, and participating in client meetings, proffer sessions, and FINRA disciplinary and arbitration proceedings

**THE HON. FRANK MAAS (RET.), U.S. MAGISTRATE JUDGE (S.D.N.Y.)**

*Judicial Law Clerk*

New York, NY

September 2015 – August 2016

**NEUFELD SCHECK & BRUSTIN, LLP**

*Temporary Associate*

New York, NY

March – August 2015

- Hired to complete time-sensitive writing projects at various stages of Section 1983 actions filed on behalf of wrongfully convicted exonerees, including successful Fifth Circuit appellees' brief and E.D.N.Y. Rule 56.1 Statement
- Spearheaded lobbying effort against proposed amendments to Washington, DC's Unjust Imprisonment Act

**OFFICE OF THE FEDERAL PUBLIC DEFENDER (E.D.N.C.)**

*Research & Writing Attorney*

Raleigh, NC

September 2012 – November 2013

Appellate:

- Handled oral argument in *U.S. v. Cazeau*, 518 Fed. App'x 139 (4th Cir. 2013) (vacating client's sentence) and *U.S. v. Perez-Perez*, 737 F.3d 950 (4th Cir. 2013) (conviction affirmed based on direct precedent, but received favorable dissent)
- Filed Fourth Circuit briefs as appellant; assisted national Federal Public Defender committee with petitioner's SCOTUS briefing on modified categorical approach issue in *Descamps v. U.S.*, 133 S. Ct. 2276 (2013) (8-1 victory for petitioner)

Trial:

- Argued 10+ felony sentencing/motion hearings in district court on topics ranging from dismissal of unsupported charging documents to supervised release violations; handled duty court and misdemeanors in magistrate court
- Drafted complex motions/responses on dispositive/procedural issues, visited clients, conducted presentence interviews

**THE (LATE) HON. DAVID W. DANIEL, U.S. MAGISTRATE JUDGE (E.D.N.C.)**

*Judicial Law Clerk*

Greenville, NC

August 2010 – September 2012

EDUCATION

**DUKE UNIVERSITY SCHOOL OF LAW**

J.D./LL.M., International and Comparative Law (Cumulative GPA: 3.44)

Durham, NC

May 2010

- Summer Study: Duke-Geneva Institute in Transnational Law in Geneva, Switzerland
- Clinical Experience: Wrongful Convictions Clinic, AIDS Legal Assistance Project

**PRINCETON UNIVERSITY**

A.B., *cum laude*, Anthropology (with Certificate in German Language and Culture)

Princeton, NJ

June 2004

- Senior Thesis: *The September 11\* Victim Compensation Fund: Cultural Confusion & Legal Limbo*
- Varsity Women's Tennis Team: Member (2000-2002), Team Manager (2002-2004)

*Admissions: New York, S.D.N.Y., E.D.N.Y., E.D. Mich., Fourth Circuit, Sixth Circuit, North Carolina (inactive)*

# **EXHIBIT B**

## ALL HOURS

Date	Person	Client	Activity	Description	Duration	Time Totals
7-Nov-19	Bettina Roberts	Rosario (Richard)	Meeting	Meet w/ EF & RS re: Rosario SJ	0:24	0.4
4-Dec-19	Bettina Roberts	Rosario (Richard)	Meeting	Initial team meeting re: SJ w/ ABH, EF, RS, AS, AF	0:48	0.8
4-Dec-19	Bettina Roberts	Rosario (Richard)	Draft	Draft case team organizational document	0:30	0.5
13-Jan-20	Bettina Roberts	Rosario (Richard)	Meeting	Team meeting re: SJ w/ EF, ABH, NB, RS, AS, AF	0:30	0.5
27-Jan-20	Bettina Roberts	Rosario (Richard)	Meeting	Meeting re: SJ planning w/ ABH, RS, AS, AF	0:30	0.5
7-Feb-20	Bettina Roberts	Rosario (Richard)	Meeting	Meeting re summary judgment w/ NB, ABH, AS, RS	1:00	1
10-Feb-20	Bettina Roberts	Rosario (Richard)	Meeting	Team meeting re: summary judgment response w/ ABH, EF, NB, RS, AS, AF	1:36	1.6
11-Feb-20	Bettina Roberts	Rosario (Richard)	Review	Review/edit summary judgment facts.	2:00	2
12-Feb-20	Bettina Roberts	Rosario (Richard)	Review	Review/edit summary judgment facts.	3:00	3
13-Feb-20	Bettina Roberts	Rosario (Richard)	Review	Review/edit summary judgment facts.	4:00	4
14-Feb-20	Bettina Roberts	Rosario (Richard)	Meeting	Team meeting re: summary judgment response w/ ABH, NB, RS, AS, AF	1:00	1
14-Feb-20	Bettina Roberts	Rosario (Richard)	Review	Review/edit summary judgment facts.	2:30	2.5
18-Feb-20	Bettina Roberts	Rosario (Richard)	Meeting	Team meeting re: summary judgment response w/ ABH, EF, NB, RS, AS, AF	1:30	1.5
18-Feb-20	Bettina Roberts	Rosario (Richard)	Review	filings	3:00	3
19-Feb-20	Bettina Roberts	Rosario (Richard)	Research	Legal research for SJ response brief	0:30	0.5
19-Feb-20	Bettina Roberts	Rosario (Richard)	Review	filings	6:00	6
20-Feb-20	Bettina Roberts	Rosario (Richard)	Review	filings	10:00	10
21-Feb-20	Bettina Roberts	Rosario (Richard)	Review	filings	4:00	4
5-Feb-21	Bettina Roberts	Rosario (Richard)	Phone Call	W/ emma, talk to anna re: Pretrial schedule	0:30	0.5
16-Feb-21	Bettina Roberts	Rosario (Richard)	Research	Research Daubert motion.	2:00	2
16-Feb-21	Bettina Roberts	Rosario (Richard)	Draft	Draft Daubert motion.	2:00	2
17-Feb-21	Bettina Roberts	Rosario (Richard)	Research	Research Daubert motion.	3:00	3
18-Feb-21	Bettina Roberts	Rosario (Richard)	Phone Call	talk to anna re: daubert motion	0:18	0.3
18-Feb-21	Bettina Roberts	Rosario (Richard)	Phone Call	Pretrial planning call w/ NB, ABH, EF, KH, KJ.	1:00	1
19-Feb-21	Bettina Roberts	Rosario (Richard)	Research	Research Daubert motion.	2:00	2
22-Feb-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit Daubert motion.	2:30	2.5
23-Feb-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit Daubert motion.	1:30	1.5
24-Feb-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit Daubert motion.	1:00	1



25-Feb-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit Daubert motion.	2:30	2.5
26-Feb-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit Daubert motion.	1:00	1
4-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Edit Daubert motion.	0:30	0.5
5-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Edit Daubert motion.	1:30	1.5
6-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Edit Daubert motion.	1:30	1.5
7-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Cite check/edit/finalize Daubert motion.	1:30	1.5
8-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Cite check/edit/finalize Daubert motion.	3:00	3
9-Mar-21	Bettina Roberts	Rosario (Richard)	Phone Call	response.	0:18	0.3
9-Mar-21	Bettina Roberts	Rosario (Richard)	Research	Research response to Daubert motion (Agharkar)	0:30	0.5
9-Mar-21	Bettina Roberts	Rosario (Richard)	Phone Call	Call w/ EF, NB, ABH, KH, KJ re Daubert response.	0:18	0.3
10-Mar-21	Bettina Roberts	Rosario (Richard)	Research	Research response to Daubert motion (Agharkar)	2:30	2.5
11-Mar-21	Bettina Roberts	Rosario (Richard)	Research	Research response to Daubert motion (Agharkar)	2:00	2
11-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft response to Daubert motion (Agharkar)	1:00	1
12-Mar-21	Bettina Roberts	Rosario (Richard)	Phone Call	Call w/ EF, ABH, KH, KF, KJ, AA (intern) to discuss MILs.	0:42	0.7
12-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft response to Daubert motion (Agharkar)	1:00	1
15-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit response to Daubert motion (Agharkar)	4:00	4
16-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit response to Daubert motion (Agharkar)	4:00	4
17-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit response to Daubert motion (Agharkar)	4:00	4
19-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit response to Daubert motion (Agharkar)	0:30	0.5
21-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Finalize Daubert response.	2:00	2
22-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Finalize Daubert response.	4:00	4
24-Mar-21	Bettina Roberts	Rosario (Richard)	Phone Call	Call with ABH, KH, KJ re: Daubert reply.	0:18	0.3
24-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft Daubert reply	0:30	0.5
25-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft Daubert reply	2:00	2
26-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft Daubert reply	2:00	2
27-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft Daubert reply	2:00	2
28-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit Daubert reply	1:00	1
29-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit Daubert reply	3:00	3
30-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit Daubert reply	1:00	1
31-Mar-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit Daubert reply	2:00	2
1-Apr-21	Bettina Roberts	Rosario (Richard)	Draft	Draft/edit Daubert reply	1:00	1
9-Apr-21	Bettina Roberts	Rosario (Richard)	Draft	Draft MILs	1:30	1.5

12-Apr-21	Bettina Roberts	Rosario (Richard)	Draft	Draft MILs	1:00	1
13-Apr-21	Bettina Roberts	Rosario (Richard)	Draft	Draft MILs	1:00	1
14-Apr-21	Bettina Roberts	Rosario (Richard)	Draft	Draft MILs	1:00	1
15-Apr-21	Bettina Roberts	Rosario (Richard)	Draft	Draft MILs	0:30	0.5

<b>Total</b>	<b>116.7</b>
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